REMARKS

By this amendment claim 1 has been cancelled, claim 2 has been amended, and claims 22 and 23 have been added. Accordingly, claims 2-23 are now pending in the application. The specification has also been amended. Reconsideration and allowance of all of the claims are respectfully requested in view of the foregoing amendments and the following remarks.

Regarding Office Action Paragraph 1 – Objection to the Specification

Paragraph 16 has been amended to add the following, in order to provide a description of an "ATV-type tire": "Each of the wheels includes an ATV-type tire, *i.e.* a low-pressure balloon tire having an air pressure of less than 1 kg/cm^2.".

It is believed that this description is already present in the application, as the vehicle described therein is an ATV, it is shown in the drawings have ATV-type tires, and this definition is known by a person skilled in the art of ATVs. For example see U.S. Patent 4,860,850 (already provided to the Examiner in a related application), assigned to the present assignee's competitor Honda, wherein, at col. 3, lines 57-60 it states: "The wheels Wf, Wlr, Wrr each has a wide extremely low pressure tire T, for example, so-called balloon tire whose air pressure is less than 1 kg/cm^2, mounted thereon."

Reconsideration and withdrawal of the objection is respectfully requested.

Regarding Office Action Paragraph 2 and 3 – Rejection under 35 U.S.C. 112

Claim 2 is rejected under 35 U.S.C. 112 2nd para. as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

The Examiner believes that the expression "an ATV-type tire" is unclear. In response, applicant has deleted this limitation from claim 2. It is believed that this amendment overcomes the Examiner's rejection in this regard. Reconsideration and withdrawal of this rejection is respectfully requested.

Further, Applicant has added claim 23 in which the limitation that "each of the tires has an air pressure of less than 1 kg/cm^2" appears. This is believed to be definite and in compliance with 112 (2nd.)

Regarding Office Action Paragraphs 4, 5 and 6 – Rejection under 35 U.S.C. 103(a)

Examiner is rejecting claims 1-21 under 35 USC 103(a) as being unpatentable over Kitao et al. (US Pat. No. 6,296,163). Applicants respectfully disagree.

On a preliminary note, Applicants have cancelled claim 1, amended claim 2, and added new independent claim 22. These amendments were not in response to the Examiner's rejection, but we made to more precisely define the claimed invention, no surrender of equivalents is intended thereby.

Referring to the rejection, Examiner states "Kitao, et al. teaches... a secondary seat portion, rearward of the main seat portion..." Examiner, however, is incorrect in her understanding of Kitao. Kitao is directed to a "Carrier for Straddle Four Wheeled All-Terrain Vehicle and Support Structure Therefore" (title). The ATV described therein is a standard single-seater ATV. Such ATVs have existed in the prior art for some time. The only disclosure therein regarding the seat is "seat (10)".

A more detailed description of Kitao is unnecessary. It is clear that Kitao does not disclose "a straddle-type seat supported by the frame including a main seat portion which is dimensioned to support a standard driver having the dimension and weight of a 50-percentile human male and a secondary seat portion, rearward of and adjacent to the main portion, which is dimensioned to support a standard passenger having the dimensions and weight of a 50-percentile human male", as is recited in all of the claims of the present application. If the Examiner believes that Applicants' characterization of Kitao is incorrect, Applicants request that the Examiner identify particular passages of text of Kitao that support the Examiner's contention.

Examiner then goes on to state: "With respect to the wheelbase, it would have been obvious matter of design choice to have the wheelbase a specific size and/or a size within a specific range, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art..." With respect, this is incorrect in the present situation as two-seater ATVs did not previously exist prior to the present invention thereof by the Applicants. Since two-seater ATVs did not exist, the wheelbases thereof did not exist either. It cannot therefore be possible for the recitation of the wheelbase in the current claims to be "a mere change in the size of a component", when the component did not heretofore exist.

The Examiner then goes on to state: "[w]ith respect to the main supporting range, it would have been an obvious to one having ordinary skill in the art at the time the invention was made to have the main supporting range positioned rearwardly of the front axis by a percentage within a range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.". Examiner raises similar arguments regarding the secondary supporting range elevated relative to the main supporting range within a specific range, the ratio of the horizontal distance between a center of gravity of the power unit and the rear axis to the wheelbase, the supporting ranges longitudinal separated by a specific distance, and the straddle seat of a specific longitudinal length.

With respect, the Examiner is incorrectly applying the law based on her incorrect understanding of the facts. As has been stated, two-seater ATVs did not exist prior to the invention thereof by the Applicants. Therefore it is not possible that "the general conditions of claim are disclosed in the prior art" since the claims are all limited to two-seater ATVs. Thus the discovery of the optimum or workable ranges of the variable set forth in the claims cannot involve only routine skill in the art in the present case.

Furthermore, even if this were not the case, the Examiner's statement of the law is incomplete. See MPEP 2144.05 II B. The complete statement is that "A particular parameter must first be recognized as a result-effective variable, i.e. a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation. *In re Antonie*, 559 F.2d 618, 195 USPD 6 (CCPA 1977)".

Applying the correct legal test to the present case, as two-seater ATVs did not previously exist, it is not possible that any particular parameters being claimed in the present application and referred to above could have been recognized in prior art as a result-effective

variable. For this reason as well then it cannot therefore be said that the recitation of these variables in the present claims is simply the determination of the optimum or workable range thereof which could be characterized as routine experimentation.

Examiner rejected claim 21 under 35 USC 103(a) as being unpatentable over Kitao, et al (US Pat. No. 6,296,163) in view of Pestotnik (US Pat. No. 6,182,784). As previously mentioned, Kitao discloses a standard single-seater ATV. Pestotnik teaches an all-terrain vehicle drive train for a standard single-seater ATV. As such Pestotnik does not overcome the deficiencies of Kitao and therefore irrespective of whether or not is combination with Kitao is proper, cannot render obvious any of the claims of the application, including claim 21.

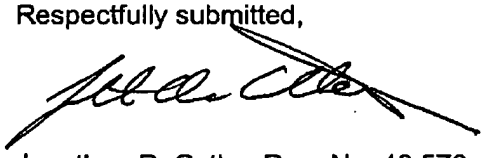
Reconsideration and withdrawal of the rejection is respectfully requested.

Conclusion

In view of the above amendments and remarks, the Applicant respectfully submits that all of the currently pending claims are allowable, and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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